

236.3.11.1 Sole Proprietors

a) Sole Proprietor-No Employees

If the proposed contractor is a sole proprietor with no employees, presentation of a copy of the sole proprietor's drivers license or other document as affirmative proof of their eligibility to provide services or the Affidavit-Applicant Failure to Prove Lawful Presence is all that is required for contracts in excess of \$5,000. A sole proprietor with no employees will not have an Employer Identification Number (EIN) and will not be able to participate in the E-Verify program.

b) Sole Proprietor-with Employees

If the sole proprietor has employees, they will need to complete and submit the Annual Worker Eligibility Affidavit, the first page and the signature page(s) of the E-Verify MOU documentation along with documentation of affirmative proof of citizenship and/or permanent residency within the United States for contracts in excess of \$5,000.

236.3.11.2 Affirmative Proof

Proof of Citizenship/Lawful Presence/Section 208.009 RSMo/Effective August 28, 2008:

As applied to MoDOT, RSMo 208.009 requires applicants for state grants, contracts or loans to provide affirmative proof that the applicant is a citizen or permanent resident of the United States or is lawfully present in the United States. This statute is only applicable to applicants that are sole proprietorships (individuals) and partnerships because other business entities, such as corporations and limited liability companies, are registered with the Secretary of State to lawfully conduct business in Missouri, and recognized as distinct from the people who own it.

Affirmative proof of citizenship and/or permanent residency is defined by this statute to include "documentary evidence recognized by the Missouri Department of Revenue when processing an application for a drivers license, a Missouri drivers license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States." If the applicant cannot provide the above-described affirmative proof, then the applicant may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence in order to receive a temporary state grant, contract, or loan from MoDOT/MHTC. The Affidavit-Applicant Failure to Prove Lawful Presence (see box on right) document can be found at CCO's intranet site under contracts-MISC DOCS. An applicant who has provided the sworn affidavit required under subsection 4 of Section 208.009 RSMo, is eligible to receive temporary public benefits (1) For ninety days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier; or (2) Indefinitely if the applicant provides a copy of a completed application for a birth certificate that is pending in Missouri or some other state. An extension granted under this subsection shall terminate upon the applicant's receipt of a birth certificate or a determination that a birth certificate does not exist because the applicant is not a United States citizen.